



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA
JUDICIAL REVIEW APPLICATION NO. 24 OF 2014
IN THE MATTER OF APPLICATION FOR ORDERS OF JUDICIAL REVIEW BY
JECINTA WANJIRU MUNIU
AND
IN THE MATTER OF THE IRRIGATION ACT CAP 347 LAWS OF KENYA
AND
IN THE MATTER OF RICE HOLDING NUMBER 209 UNIT 13D MWEA TEBERE
SECTION OF THE NATIONAL IRRIGATION BOARD-MWEA IRRIGATION
SETTLEMENT SCHEME
AND
IN THE MATTER OF SUB-ADVISORY COMMITTEE PROCEEDINGS AND AWARD
MADE ON 12TH JUNE, 2014

BETWEEN

REPUBLIC OF KENYA APPLICANT

VERSUS

NATIONAL IRRIGATION BOARD RESPONDENT

GLADWELL NYAMBURA)

JULIA WAIHERA MBUGUA)..... INTERESTED PARTIES

EX-PARTEJECINTA WANJIRU MUNIU

RULING

The Ex-parte applicant herein has moved the Court seeking leave to bring an application for certiorari to remove into this Court and quash the proceedings and award of the Sub-Advisory Committee of the

Respondent i.e. the National Irrigation Board made on 12th June, 2014 in respect of rice holding number 209 Unit 13D Mwea Tebere Section. She also seeks leave to apply for prohibitory and mandatory orders against the Senior Scheme Manager of the Respondent to stop him from executing or proceeding to execute the award made on 12th June, 2014 relating to the said rice holding in favour of the interested parties herein or any other person and such execution if any be declared null and void and the Senior Scheme Manager be compelled to restore the entire rice holding in the names of the ex-parte applicant as per the Court order given on 2nd February, 2000 in Wanguru Court Succession Cause No. 26 of 1999 and also in compliance with the Rules made under the Irrigation Act. The ex-parte applicant further seeks orders that the leave so granted do operate as a stay of execution and further proceedings arising from the award made on 12th June, 2014 relating to the said rice holding until further orders of this Court.

The application is premised on the grounds appearing on the face of the same and also on the affidavit of the applicant and statement of facts. All I can say is that at this stage, there is no place for supporting affidavit in an application for leave. All that is required is the affidavit verifying the facts which ought to be detailed and contain all the facts relied on by the applicant.

I have considered the application and the affidavit and statement of facts. What comes out is that although the applicant is the legal owner of rice holding No. 209 Unit 13D Mwea Tebere Section having been declared as the rightful successor by Court, the Sub-Advisory Committee of the respondent awarded the interested parties part of the said rice holding. It is the applicant's case that by so doing, the said Sub-Advisory Committee exceeded its jurisdiction and therefore this Court needs to intervene. The Court order declaring the applicant the owner of the said rice holding is dated 2nd February, 2000 and the applicant has deposed that the said order has never been set aside.

Prima facie, the applicant has established sufficient grounds for the order sought in her Chamber Summons dated 10th November, 2014. I therefore allow the said application and grant the leave sought to apply for orders of certiorari, prohibition and mandamus as prayed.

In accordance with the provisions of **Order 53 Rule 3 (1) and (2) of the Civil Procedure Rules**, I direct that the applicant shall file and serve the Notice of Motion within 21 days from the date hereof and serve the same upon the respondent, the interested parties and all such other persons as are affected by it within 14 days of filing.

I further order that the leave herein granted shall operate as a stay of execution and further proceedings arising from the award made on 12th June, 2014 relating to the rice holding number 209 Unit 13D Mwea Tebere Section pending the hearing and determination of the substantive Notice of Motion.

Costs shall be in the cause.

B.N. OLAO

JUDGE

5TH DECEMBER, 2014

5/12/2014

Before

R. Limo – Judge

Mbogo – CC

Mr. Magee holding brief for Mr. Kebuka for Ex-parte Applicant – present

COURT: Ruling delivered in the presence of Mr. Magee holding brief for

Mr. Kebuka for Applicant.

No representation for the Interested party.

R. LIMO

JUDGE

5TH DECEMBER, 2014